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divorce, separation, or decree for support are not deductible by either the husband or the wife. However, the part of an attorney's fee and the part of the other costs paid in connection with a divorce, legal separation, written separation agreement, or a decree for support, which are properly attributable to the production or collection of amounts includible in gross income under section 71 are deductible by the wife under section 212.

(8) The cost of equipment of a member of the armed services is deductible only to the extent that it exceeds nontaxable allowances received for such equipment and to the extent that such equipment is especially required by his profession and does not merely take the place of articles required in civilian life. For example, the cost of a sword is an allowable deduction in computing taxable income, but the cost of a uniform is not. However, amounts expended by a reservist for the purchase and maintenance of uniforms which may be worn only when on active duty for training for temporary periods, when attending service school courses, or when attending training assemblies are deductible except to the extent that nontaxable allowances are received for such amounts.

(9) Expenditures made by a taxpayer in obtaining an education or in furthering his education are not deductible unless they qualify under section 162 and § 1.162-5 (relating to trade or business expenses).

(c) *Cross references.* Certain items of a personal, living, or family nature are deductible to the extent expressly provided under the following sections, and the regulations under those sections:

- (1) Section 163 (interest).
- (2) Section 164 (taxes).
- (3) Section 165 (losses).
- (4) Section 166 (bad debts).
- (5) Section 170 (charitable, etc., contributions and gifts).
- (6) Section 213 (medical, dental, etc., expenses).
- (7) Section 214 (expenses for care of certain dependents).
- (8) Section 215 (alimony, etc., payments).
- (9) Section 216 (amounts representing taxes and interest paid to cooperative housing corporation).

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(10) Section 217 (moving expenses).

[T.D. 6500, 25 FR 11402, Nov. 26, 1960, as amended by T.D. 6796, 30 FR 1041, Feb. 2, 1965; T.D. 6918, 32 FR 6681, May 2, 1967; T.D. 7207, 37 FR 20795, Oct. 4, 1972]

§ 1.263(a)-0 Table of contents.

This section lists captioned paragraphs contained in §§ 1.263(a)-1 through 1.263(a)-5.

§ 1.263(a)-1 Capital expenditures; in general.

(a) through (h) [Reserved] For further guidance, see the table of contents for § 1.263(a)-1T(a) through (h) under § 1.263(a)-0T.

§ 1.263(a)-2 Amounts paid to acquire or produce tangible property.

(a) through (i) [Reserved] For further guidance, see the table of contents for § 1.263(a)-2T(a) through (i) under § 1.263(a)-0T.

§ 1.263(a)-3 Amounts paid to improve tangible property.

(a) through (q) [Reserved] For further guidance, see the table of contents for § 1.263(a)-3T(a) through (q) under § 1.263(a)-0T.

§ 1.263(a)-4 Amounts paid to acquire or create intangibles.

- (a) Overview.
- (b) Capitalization with respect to intangibles.
 - (1) In general.
 - (2) Published guidance.
 - (3) Separate and distinct intangible asset.
 - (i) Definition.
 - (ii) Creation or termination of contract rights.
 - (iii) Amounts paid in performing services.
 - (iv) Creation of computer software.
 - (v) Creation of package design.
 - (4) Coordination with other provisions of the Internal Revenue Code.
 - (i) In general.
 - (ii) Example.
 - (c) Acquired intangibles.
 - (1) In general.
 - (2) Readily available software.
 - (3) Intangibles acquired from an employee.
 - (4) Examples.
 - (d) Created intangibles.
 - (1) In general.
 - (2) Financial interests.
 - (i) In general.
 - (ii) Amounts paid to create, originate, enter into, renew or renegotiate.
 - (iii) Renegotiate.
 - (iv) Coordination with other provisions of this paragraph (d).
 - (v) Coordination with § 1.263(a)-5.
 - (vi) Examples.
 - (3) Prepaid expenses.
 - (i) In general.

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- (ii) Examples.
- (4) Certain memberships and privileges.
 - (i) In general.
- (ii) Examples.
- (5) Certain rights obtained from a government agency.
 - (i) In general.
 - (ii) Examples.
- (6) Certain contract rights.
 - (i) In general.
 - (ii) Amounts paid to create, originate, enter into, renew or renegotiate.
 - (iii) Renegotiate.
 - (iv) Right.
 - (v) *De minimis* amounts.
 - (vi) Exception for lessee construction allowances.
 - (vii) Examples.
- (7) Certain contract terminations.
 - (i) In general.
 - (ii) Certain break-up fees.
 - (iii) Examples.
- (8) Certain benefits arising from the provision, production, or improvement of real property.
 - (i) In general.
 - (ii) Exclusions.
 - (iii) Real property.
 - (iv) Impact fees and dedicated improvements.
 - (v) Examples.
- (9) Defense or perfection of title to intangible property.
 - (i) In general.
 - (ii) Certain break-up fees.
 - (iii) Example.
- (e) Transaction costs.
 - (1) Scope of facilitate.
 - (i) In general.
 - (ii) Treatment of termination payments.
 - (iii) Special rule for contracts.
 - (iv) Borrowing costs.
 - (v) Special rule for stock redemption costs of open-end regulated investment companies.
- (2) Coordination with paragraph (d) of this section.
- (3) Transaction.
- (4) Simplifying conventions.
 - (i) In general.
 - (ii) Employee compensation.
 - (iii) *De minimis* costs.
 - (iv) Election to capitalize.
- (5) Examples.
 - (f) 12-month rule.
 - (1) In general.
 - (2) Duration of benefit for contract terminations.
 - (3) Inapplicability to created financial interests and self-created amortizable section 197 intangibles.
 - (4) Inapplicability to rights of indefinite duration.
 - (5) Rights subject to renewal.
 - (i) In general.
 - (ii) Reasonable expectancy of renewal.
 - (iii) Safe harbor pooling method.
 - (6) Coordination with section 461.

- (7) Election to capitalize.
- (8) Examples.
- (g) Treatment of capitalized costs.
 - (1) In general.
- (2) Financial instruments.
- (h) Special rules applicable to pooling.
 - (1) In general.
 - (2) Method of accounting.
 - (3) Adopting or changing to a pooling method.
 - (4) Definition of pool.
 - (5) Consistency requirement.
 - (6) Additional guidance pertaining to pooling.
 - (7) Example.
- (i) [Reserved].
- (j) Application to accrual method taxpayers.
- (k) Treatment of related parties and indirect payments.
 - (1) Examples.
 - (m) Amortization.
 - (n) Intangible interests in land [Reserved]
 - (o) Effective date.
 - (p) Accounting method changes.
- (1) In general.
- (2) Scope limitations.
- (3) Section 481(a) adjustment.

§ 1.263(a)-5 Amounts paid or incurred to facilitate an acquisition of a trade or business, a change in the capital structure of a business entity, and certain other transactions.

- (a) General rule.
- (b) Scope of facilitate.
 - (1) In general.
 - (2) Ordering rules.
- (c) Special rules for certain costs.
 - (1) Borrowing costs.
 - (2) Costs of asset sales.
 - (3) Mandatory stock distributions.
 - (4) Bankruptcy reorganization costs.
 - (5) Stock issuance costs of open-end regulated investment companies.
 - (6) Integration costs.
 - (7) Registrar and transfer agent fees for the maintenance of capital stock records.
 - (8) Termination payments and amounts paid to facilitate mutually exclusive transactions.
- (d) Simplifying conventions.
 - (1) In general.
 - (2) Employee compensation.
- (i) In general.
- (ii) Certain amounts treated as employee compensation.
- (3) *De minimis* costs.
 - (i) In general.
 - (ii) Treatment of commissions.
- (4) Election to capitalize.
- (e) Certain acquisitive transactions.
 - (1) In general.
 - (2) Exception for inherently facilitative amounts.
 - (3) Covered transactions.
 - (f) Documentation of success-based fees.

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- (g) Treatment of capitalized costs.
- (1) Tax-free acquisitive transactions [Reserved].
- (2) Taxable acquisitive transactions.
- (i) Acquirer.
- (ii) Target.
- (3) Stock issuance transactions [Reserved].
- (4) Borrowings.
- (5) Treatment of capitalized amounts by option writer.
- (h) Application to accrual method taxpayers.
- (i) [Reserved].
- (j) Coordination with other provisions of the Internal Revenue Code.
- (k) Treatment of indirect payments.
- (1) Examples.
- (m) Effective date.
- (n) Accounting method changes.
- (1) In general.
- (2) Scope limitations.
- (3) Section 481(a) adjustment.

[T.D. 9107, 69 FR 444, Jan. 5, 2004, as amended by T.D. 9564, 76 FR 81100, Dec. 27, 2011]

§ 1.263(a)-0T Table of contents (temporary).

This section lists the table of contents for §§ 1.263(a)-1T, 1.263(a)-2T, and 1.263(a)-3T.

§ 1.263(a)-1T Capital expenditures; in general (temporary).

- (a) General rule for capital expenditures.
- (b) Coordination with section 263A.
- (c) Examples of capital expenditures.
- (d) Amounts paid to sell property.
- (1) In general.
- (2) Treatment of capitalized amount.
- (3) Examples.
- (e) Amount paid.
- (f) Accounting method changes.
- (g) Effective/applicability date.
- (h) Expiration date.

§ 1.263(a)-2T Amounts paid to acquire or produce tangible property (temporary).

- (a) Overview.
- (b) Definitions.
- (1) Amount paid.
- (2) Personal property.
- (3) Real property.
- (4) Produce.
- (c) Coordination with other provisions of the Internal Revenue Code.
- (1) In general.
- (2) Materials and supplies.
- (d) Acquired or produced tangible property.
- (1) Requirement to capitalize.
- (2) Examples.
- (e) Defense or perfection of title to property.
- (1) In general.
- (2) Examples.
- (f) Transaction costs.
- (1) In general.

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- (2) Scope of facilitate.
- (i) In general.
- (ii) Inherently facilitative amounts.
- (iii) Special rule for acquisitions of real property.
- (A) In general.
- (B) Acquisitions of real and personal property in a single transaction.
- (iv) Employee compensation and overhead costs.
- (A) In general.
- (B) Election to capitalize.
- (3) Treatment of transaction costs.
- (i) In general.
- (ii) Treatment of inherently facilitative amounts.
- (4) Examples.
- (g) De minimis rule.
- (1) In general.
- (2) Exceptions to de minimis rule.
- (3) Additional rules.
- (4) Election to capitalize.
- (5) Materials and supplies.
- (6) Definition of applicable financial statement.
- (7) Application to consolidated group member.
- (8) Examples.
- (h) Treatment of capital expenditures.
- (i) Recovery of capitalized amounts.
- (1) In general.
- (2) Examples.
- (j) Accounting method changes.
- (k) Effective/applicability date.
- (l) Expiration date.

§ 1.263(a)-3T Amounts paid to improve tangible property (temporary).

- (a) Overview.
- (b) Definitions.
- (1) Amount paid.
- (2) Personal property.
- (3) Real property.
- (4) Owner.
- (c) Coordination with other provisions of the Internal Revenue Code.
- (1) In general.
- (2) Materials and supplies.
- (3) Exception for amounts subject to de minimis rule.
- (4) Example.
- (d) Requirement to capitalize amounts paid for improvements.
- (e) Determining the unit of property.
- (1) In general.
- (2) Building.
- (i) In general.
- (ii) Application of improvement rules to a building.
- (A) Building structure.
- (B) Building system.
- (iii) Condominium.
- (A) In general.
- (B) Application of improvement rules to a condominium.
- (iv) Cooperative.
- (A) In general.